

BEFORE THE NORTH CAROLINA  
ENVIRONMENTAL MANAGEMENT COMMISSION

STATE OF NORTH CAROLINA	)	
	)	
COUNTY OF HAYWOOD	)	SPECIAL ORDER BY CONSENT
	)	
IN THE MATTER OF:	)	
BLUE RIDGE PAPER PRODUCTS, INC.	)	SOC 2017- <u>002</u>
[FACILITY ID 4400159]	)	

This SPECIAL ORDER BY CONSENT ("ORDER") is made and entered into pursuant to North Carolina General Statute 143-215.110 by and between BLUE RIDGE PAPER PRODUCTS, INC. ("COMPANY") and the ENVIRONMENTAL MANAGEMENT COMMISSION, an agency of the State of North Carolina ("COMMISSION").

WITNESSETH:

- I. The COMPANY and the COMMISSION do hereby stipulate and agree to the following:
- A. The COMPANY owns and operates a pulp and paper mill (SIC Code 2621) located at 175 Main Street in Canton, Haywood County, North Carolina ("Facility"). The Facility operates under Air Quality Permit Number 08961T20 ("Permit"), which was issued by the North Carolina Division of Air Quality ("DAQ") on June 30, 2017.
  - B. The United States Environmental Protection Agency ("U.S. EPA") modified the Primary National Ambient Air Quality Standard ("NAAQS") for sulfur dioxide ("SO<sub>2</sub>") to a 1-hour standard in 2010. 75 Federal Register 35520. The standard is 75 parts per billion ("ppb") and compliance is determined by measuring the 99<sup>th</sup> percentile of 1-hour daily maximum concentrations each year and averaging those values over three years.
  - C. General Condition II of the Facility's Permit addresses exceedances of ambient standards.

II. Ambient Air Quality Standards [15A NCAC 02D .0501(c)]

*In addition to any control or manner of operation necessary to meet emission standards specified in this permit, any source of air pollution shall be operated with such control or in such manner that the source shall not cause the ambient air quality standards in 15A NCAC 02D .0400 to be exceeded at any point beyond the premises on which the source is located. When controls more stringent than named in the applicable emission standards in this permit are required to prevent violation of the ambient air quality standards or are*

*required to create an offset, the permit shall contain a condition requiring these controls.*

D. Rule 15A NCAC 02D .0401(c) states:

*(c) No facility or source of air pollution shall cause any ambient air quality standard in this Section to be exceeded or contribute to a violation of any ambient air quality standard in this Section except as allowed by Rules .0531 or .0532 of this Subchapter.*

E. Rule 15A NCAC 02D .0402(e) states:

*(e) The one-hour primary standard is met at an ambient air quality monitoring site when the three-year average of the annual (99th percentile) of the daily maximum one-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with Appendix T of 40 CFR Part 50.*

- F. In accordance with U.S. EPA's August 21, 2015 Data Requirements Rule for the 2010 1-Hour SO<sub>2</sub> Primary NAAQS, 80 Fed. Reg. 51052, DAQ established an SO<sub>2</sub> monitor approximately 150 feet west of the Facility's fence line ("Monitor"), in order to assist DAQ and U.S. EPA in determining whether ambient air surrounding the Facility meets the new SO<sub>2</sub> NAAQS.
- G. Pursuant to a consent decree entered by the Northern District of California against U.S. EPA in *Sierra Club v. McCarthy*, Case No. 13-cv-03953-SI, U.S. EPA must determine whether the ambient air surrounding the Facility meets the new SO<sub>2</sub> NAAQS no later than December 31, 2020.
- H. 40 C.F.R. Part 63, Subpart DDDDD (the "Boiler MACT Rule") requires the Facility to install Maximum Achievable Control Technology to reduce its emissions of hazardous air pollutants from certain boilers at the Facility. Pursuant to Section 112(j) of the Clean Air Act, 42 U.S.C. § 7612(j), DAQ determined that the Facility must be in compliance with the Boiler MACT Rule no later than May 20, 2019.
- I. In order to comply with the Boiler MACT Rule, the Facility has been permitted to, and must complete the installation of approximately \$50 million in planned improvements (the "Boiler MACT Improvements"), no later than May 20, 2019. The Boiler MACT Improvements will include the installation of two new, natural gas-fired boilers, the installation of wet scrubbers and rebuilt electrostatic precipitators on two additional coal-fired boilers and the permanent shutdown of two coal-fired boilers at the conclusion of the project.

- J. As of December 2016, the facility's three-year facility-wide SO<sub>2</sub> actual emissions average was approximately 7,600 tons per year. While construction of the Boiler MACT Improvements is ongoing, the Facility's actual SO<sub>2</sub> emissions are estimated to decrease as follows:
1. By December 31, 2017 – estimated emissions decrease of approximately 1,000 tons per year;
  2. By October 31, 2018 – estimated emissions decrease of approximately 1,500 tons per year;
  3. By November 30, 2018 – estimated emissions decrease of 1,500 tons per year; and
  4. By December 31, 2018 – estimated emissions decrease of 1,100 tons per year.
- J. Since required monitoring began on January 1, 2017, the Monitor has detected 1-hour daily maximum concentrations exceeding the SO<sub>2</sub> standard. Until the Boiler MACT Improvements are complete, the Company and DAQ expect the Monitor will periodically detect additional 1-hour daily maximum concentrations of SO<sub>2</sub> greater than 75 ppb.
- K. An Addendum to Notice of Violation and Notice of Recommendation for Enforcement ("NOV/NRE") was issued to the facility on June 8, 2017, for violations of Permit General Condition II which requires compliance with 15A NCAC 02D .0501(c). The NOV/NRE amended the March 14, 2017, NOV and included the SO<sub>2</sub> exceedances referenced in paragraph I.J.
- L. By letter dated June 23, 2017, the COMPANY disputed that it is presently in violation of Permit General Condition II or 15A NCAC 02D .0501(c).
- M. The COMPANY commenced operation of two new, natural gas-fired boilers (225 mmBTU/hour) (the "New Gas Boilers") at the Facility during the second quarter 2017.
- N. The COMPANY permanently shut down the Facility's "Big Bill" coal-fired boiler in July 2017.
- O. The COMPANY proposes to limit emissions of SO<sub>2</sub> after completion of the Boiler MACT Improvements to comply with the SO<sub>2</sub> NAAQS. The COMPANY also proposes to apply for a modification of its Permit to incorporate an appropriate limit.

THEREFORE, the COMMISSION and the COMPANY, desiring to resolve and settle the compliance issues between them and in order to memorialize the COMPANY's commitments to

complete the Boiler MACT Improvements and, thereafter, to limit the Facility's emissions of SO<sub>2</sub>, have agreed to enter into this ORDER with the following terms and conditions:

II. The COMPANY, desiring to operate in a safe and environmentally sound manner during the period of this ORDER and thereafter in accordance with the rules and regulations of the COMMISSION, does hereby agree to perform the following activities:

A. Improvements Milestones:

1. The COMPANY will commence initial operation of the rebuilt electrostatic precipitators and new wet scrubbers on the Facility's "Riley Coal Boiler" by October 31, 2018.
2. The COMPANY will commence initial operation of the rebuilt electrostatic precipitators and new wet scrubbers on the Facility's "Number 4" coal-fired boiler by November 30, 2018.
3. The COMPANY will permanently shut down the Facility's "Peter G" coal-fired boiler by December 31, 2018.
4. No later than 14 days after the deadline for completing each milestone required in Paragraph II.A, the COMPANY shall submit a written certification to the Air Quality Regional Supervisor, Asheville Regional Office, DAQ, stating whether such milestone has been performed.

B. Testing and Reporting:

1. Following initial startup of the rebuilt electrostatic precipitators and wet scrubbers on the Riley Coal Boiler, the COMPANY will operate said precipitators and wet scrubbers in accordance with good operational and air pollution control practices at all times. An SO<sub>2</sub> emissions reduction source test report will be submitted to DAQ within 180 days of "Riley Coal Boiler" scrubber initial operation. Such report shall include SO<sub>2</sub> mass emissions, scrubber control efficiency, and associated operational parameters.
2. Following initial startup of the rebuilt electrostatic precipitators and wet scrubbers on the Number 4 coal-fired boiler, the COMPANY will operate said precipitators and wet scrubbers in accordance with good operational and air pollution control practices at all times. An SO<sub>2</sub> emissions reduction source test report will be submitted to DAQ within 180 days of "No. 4" coal-fired boiler scrubber initial operation. Such report shall include SO<sub>2</sub> mass emissions, scrubber control efficiency, and associated operational parameters.
3. The COMPANY will submit an SO<sub>2</sub> emissions source test report to DAQ for the Riley Bark Boiler, No. 10 recovery Furnace and No. 11 Recovery Furnace at the same time as the test required in paragraph II.B.1 or II.B.2, whichever is

later. The test requirement under II.B.3 can be satisfied with a test performed and submitted at any point within 2 years prior to the II.B.1 or II.B.2 submittal.

4. The COMPANY shall submit a facility-wide SO<sub>2</sub> emissions summary to DAQ with the last test report required under paragraph II.B.

C. The COMPANY shall submit a complete permit application including SO<sub>2</sub> emission limits and modeling that will demonstrate compliance with the one hour SO<sub>2</sub> NAAQS by March 1, 2018. DAQ will issue a permit with SO<sub>2</sub> emission limits containing a compliance date no earlier than December 31, 2018.

III. The COMMISSION agrees that, except as provided in the terms and requirements of this ORDER, the COMPANY shall not be subject to a separate Notice of Violation or other enforcement action related to the 1-hour SO<sub>2</sub> NAAQS or compliance with 15A N.C.A.C. 02D .0402 during the term of this ORDER.

In the event DAQ receives sufficient data from the Monitor to demonstrate the average annual 99<sup>th</sup> percentile of 1-hour daily maximum concentrations of SO<sub>2</sub> for the period between January 1, 2017, up to and including, December 31, 2019 will exceed 75 ppb, the COMPANY agrees to pay DAQ a stipulated penalty in the amount of \$5,000.00. This amount shall be due and payable within 30 days of the COMPANY receiving written notice of same from the DAQ Director. By entering into this SOC and agreeing to pay this stipulated penalty, the COMPANY does not concede liability for the alleged violations described in the NOV/NRE.

In the event that the COMPANY fails to comply with any deadline as set out in this ORDER or fails to achieve final compliance with any applicable requirement of this ORDER, the COMPANY agrees that, unless excused under Paragraph IV, the COMPANY will pay DAQ stipulated penalties according to the following schedule:

<b><u>Deadlines and Requirements</u></b>	<b><u>Stipulated Penalties</u></b>
Failure to meet requirements in paragraph II.A.	\$500.00 per day for the first 5 days and \$1000.00 per day thereafter
Failure to comply with the SO <sub>2</sub> emissions limit in the permit described in paragraph II.C.	\$500.00 per day for the first 5 days and \$1000.00 per day thereafter
Failure to comply with any deadline or operating requirement in Paragraph II.B or II.C.	\$500.00 per day for the first 5 days and \$1000.00 per day thereafter
Any daily maximum 1-hour SO <sub>2</sub> measurement exceeding 75 ppb at the Monitor between April 1, 2019 and the expiration of this ORDER.	\$1,000.00 per exceedance

Failure within thirty (30) days of receipt of the DAQ Director's written demand to pay stipulated penalties will be grounds for a collection action, which the Attorney General is hereby authorized to initiate. The only issue in such an action will be whether thirty (30) days has elapsed.

- IV. The COMPANY'S obligation to comply with the requirements set forth in this ORDER for which a stipulated penalty may be assessed may be delayed or excused only to the extent that noncompliance is caused by circumstances beyond control of the COMPANY, as determined by the DAQ Director. Failure to obtain funding will not be considered an event beyond the COMPANY'S control. If any such delaying event occurs, the COMPANY shall notify DAQ in writing within ten (10) days of encountering or discovering the delaying event, describing in detail the event or delay, the precise cause(s) of the event or delay, the measure(s) taken and to be taken by the COMPANY to prevent or minimize the event or delay, and the schedule by which those measures will be implemented. If the COMPANY establishes good cause for its failure to comply with any part of this ORDER, (*i.e.*, noncompliance was caused by circumstances beyond the control of the COMPANY), DAQ and the COMPANY jointly may stipulate and agree to a written modification of this ORDER. Extension of any compliance date pursuant to this Paragraph shall not extend any subsequent deadlines established in the ORDER unless the subsequent deadline is dependent upon completion of the earlier deadline.
- V. The COMPANY agrees to waive any rights it may have to seek judicial review to challenge this ORDER or to seek a stay of enforcement of this ORDER in connection with any judicial review of the State Implementation Plan. The COMMISSION acknowledges that this waiver does not prohibit the COMPANY from seeking modification of this ORDER if any regulatory standards upon which this ORDER is based are changed subsequent to its execution. In such cases, the COMPANY may petition that the ORDER be modified to reflect those regulatory changes.
- VI. Any violation of Air Quality Standards not resolved by this ORDER shall subject the COMPANY to appropriate enforcement action pursuant to N.C.G.S. §§ 143-215.114A, 143-215.114B and 215.114C.
- VII. All notices and reports required from the COMPANY by this ORDER shall be delivered to:

Brendan Davey, P.E., Regional Air Quality Supervisor  
N.C. Department of Environmental Quality  
2090 U.S. Highway 70  
Swannanoa, NC 28778

All payments required from the COMPANY by this ORDER shall delivered to:

Enforcement Group - Payments  
NCDEQ - DAQ  
Mail Service Center 1641

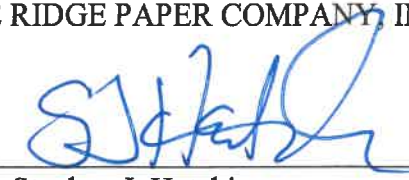
Raleigh, North Carolina 27699-1641

- VIII. This ORDER constitutes full and final resolution and satisfaction of all matters addressed herein and any and all claims or prospective claims that the COMMISSION has or may have regarding the matters addressed herein, as of the date this ORDER is approved by the COMMISSION. This ORDER shall not affect the COMPANY'S obligation to comply with any Federal, State, or local laws or regulations.
- IX. Final approval and entry into this ORDER are subject to the requirements that the COMMISSION give notice of proposed consent order to the public, and that the public have at least thirty (30) days within which to comment on the ORDER.
- X. Should any provision of this ORDER be declared by a court of competent jurisdiction to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.
- XI. Any modifications of this ORDER must be agreed to in writing signed by both parties.
- XII. Except as otherwise set forth herein, this ORDER is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the COMPANY of its obligations to comply in the future with any permit.
- XIII. In the event of termination of operations and closure of the FACILITY, the COMPANY shall notify the DIRECTOR in writing, within five (5) business days of the earlier of (i) the date any Workers Adjustment and Retraining Notification (WARN) Act, notification, or (ii) FACILITY closure. Receipt of said notification from the COMPANY by the DIRECTOR shall terminate any obligations of the COMPANY pursuant to this ORDER, including those pertaining to stipulated penalties, and this ORDER shall become null and void in its applicability to the COMPANY. The COMPANY acknowledges its responsibilities pursuant to this ORDER from the date of final approval and entry of this ORDER, through the date of receipt by the DIRECTOR of notification of closure required by this Paragraph or the date of expiration of this ORDER, whichever is earlier.
- XIV. This ORDER is effective on execution by the COMMISSION and shall expire on December 31, 2019.

ATTESTED:

BLUE RIDGE PAPER COMPANY, INC.

BY:



Stephen J. Hutchins

General Manager

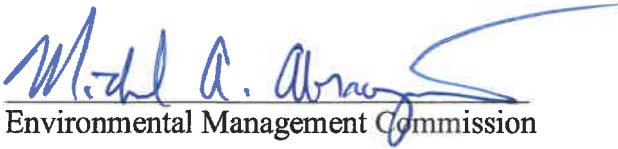
Blue Ridge Paper Products, Inc

DATE:

9/5/17

APPROVED AND ACCEPTED:

BY:



Environmental Management Commission

DATE:

10/9/17